

they would not be found and confiscated by the guards during a shakedown or when my property was sent home in the event that someone was successful in collecting the bounty placed on my life by the officials. Eventually, I decided to turn the statements over to an attorney I thought trustworthy enough to advise me what to do. I took advantage of the first opportunity to get the statements past the prison officials, and the statements were mailed to the attorney for me.

The officials became very angry when they found out that their selected assassins had betrayed the plot against my life and had cooperated in bringing the matter to the attention of concerned people and eventually the general public. They immediately transferred one of the intended assassins to another institution and thereafter moved me to the east side of the second tier on O Wing, where, in February, 1971, I sit writing this document of my life and experiences at Soledad.

CHAPTER 10

The Soledad Seven: Attempted Murder in Monterey

by Eve Pell

On July 13, 1970, a white guard named William Shull was stabbed to death at North Facility, a minimum-security section of Soledad. He had been stabbed more than 50 times while in his office in a small shack near a baseball diamond. Guards locked all inmates in North Facility in their cells, searched them and the cells, and questioned them. The yard shack where Shull died was tested for fingerprints, footprints, and other evidence by representatives of the Bureau of Criminal Identification and Investigation (CII), a state equivalent of the FBI.

Records of the investigation show that prison officials at first suspected a conspiracy of Mexican Americans. They knew that Shull had had serious difficulties with Mexican Americans near the time of his death. However, after interrogating Mexican Americans without being able to establish a good case, prison officials began to interrogate blacks, and the focus of the investigation shifted. Why to blacks? Possibly because Shull's death could be regarded as a second act of retaliation for the shooting of the three black inmates in the O Wing yard; possibly because groups of black inmates gathered daily to talk around some picnic tables near Shull's office. Perhaps, also, prison authorities felt they could use this murder as a pretext for destroying black organization within the institution.

INVESTIGATION AND INTERROGATION

"We do not charge people who are innocent with crime. I have been in this business for a long time and I have never done that. . . . There is nothing in the world that will make me charge an innocent man of a crime," one investigator assured an inmate suspect.

Black prisoners had organized a tutoring class which met on Wednesday nights in North Facility. Prison officials and investigators focused on this class as a center of black militancy and the place where a conspiracy to kill the guard had originated. They interrogated suspects extensively about what went on in the class. Despite requirements that attendance records be maintained, prison officials lost or destroyed the attendance records of this particular class. Thus, blacks who had never attended the class were unable to prove statements to this effect, and an important means of testing the veracity of certain witnesses mysteriously disappeared.

A team of officials was assigned to prosecute the case: Norman Card of CII, Captain Clifford Rodgers of North Facility, Captain Charles Moody, head of the Security Squad and special investigator of the district attorney, and Assistant District Attorney Edward Barnes of Monterey County. These men, along with prison staff, interrogated inmates and took charge of those who claimed to be witnesses.

The interrogators were required by law to read each suspect a statement of his rights before questioning him, advising him that what he said could be used against him and that he had a right to counsel. Transcripts of the interviews reveal that in many cases this advice was never given. In other cases, the rights were read, but when the prisoner attempted to exercise them, he was overruled.

For example, note the following excerpt from the transcript

of an interview with Jesse Phillips, a nineteen-year-old black. Several times earlier in the interview, Phillips had requested an attorney. The interrogators overrode his requests and continued to ask him questions; Phillips said he would talk if so advised by an attorney.

- Q: Are you really half as interested in let's say—completely clearing yourself of this thing as we are?
- Phillips: Interested in clearing myself? Yes.
- Q: We can shake you out of this situation as it now stands—do you understand we want to do that?
- Phillips: No, I don't. If you did, you would have a lawyer here.

And the questions continue.

In another session with Phillips, one of the interrogators stated: "You have the right to refuse to talk to us. I also have a right to assume that if you do refuse to talk to us you do it because you feel that you are implicated or something. . . . If you want a lawyer, you are certainly entitled to have one."

But no lawyer ever is present during the questioning, and the grilling continues, with the constant implication that asking for a lawyer implies guilt.

Another technique used by the interrogators with the inmates most suspected of involvement was deception: "We only want to clear you." "You are not really under suspicion." "Don't you want to help yourself?"

Interrogators pressed inmates to take polygraph tests and Sodium Pentothal, again with the implication that refusal indicated guilt: "How about a little Sodium Pentothal? They call it a truth serum. It liberates your mind."

The interrogators often threatened to unleash the "inmate code"—a major canon of which is that "snitches" or "rats" get stabbed—on those who would or could not answer their ques-

tions. After one terrified inmate refused to talk, Captain Rodgers threatened to send him out into the halls and loudly thank him for the information so that inmates within earshot would spread the word that this inmate had snitched. This prisoner was repeatedly called in for interrogation so that inmates would think he was talking, even though he said he knew nothing.

Carrot as well as stick was applied to this man. He said that he was offered \$500 and a reduced sentence for saying that he had seen a certain black inmate with a knife before the killing. He was also offered help with the pending appeal of his own case.

Several days after the murder, prison staff posted reward notices. A prisoner who inquired about the poster later described it: "It said \$500 reward for information leading to arrest and conviction of any person involved in the killing. . . . It was signed by D. B. Cole. Written up in longhand. I asked him about it. He said they will probably parole the dude." Prison officials later denied that these posters had existed. However, the tape recording of an interrogation picked up a background conversation in which one staff member told another to go and take down the reward posters.

Threats of doing extra time or time in the most severe prisons occur frequently in the transcripts. One inmate was told, "You are close enough to the fire and you might get burned. . . . How much time do you think you will do if you get completely resolved of this thing?"

"About seven . . ."

"The way it stands right now, exactly at this point, this tenth day of August at 1:35 P.M., I can see more than seven years. I think it is important that you stay and clean yourself up. You are not clear. You are implicated. . . . I don't know if we ever can clear you." And they continue to ask for information.

One white inmate was unloading a truck at the time Shull was killed. At 2:30 the following morning, guards took him to be questioned. He described that questioning:

They asked me if I knew what happened and who did it. I told them no. And they told me I must know who did it. Then they showed me some pictures of some black inmates and told me that they think they did it. But they don't have any proof and they would like to know if I was interested in a parole or discharge in exchange for my testimony against the inmates in the pictures that they showed me. I told them that I didn't know anything and they told me it did not matter, that they would tell me what to say in court. All they wanted was a conviction. They was willing to give me my freedom in exchange for my cooperation. I refused to lie on those inmates.

Then they told me they could really make things tough for me and that I had no sense of responsibility toward my race and the officer who was killed was killed by niggers and who knows I could be next because they are trying to kill all white people. Therefore I should not care what happens to them.

THE WITNESSES

On September 18, two months after Shull's death, seven black prisoners were charged with murder and conspiracy: James Wagner, Jesse Phillips, Roosevelt Williams, O. C. Allen, Walter Joe Watson, Alfred Dunn, and Jimmie James. Because they were all serving indeterminate sentences with a maximum term of life, they were subject to a mandatory death penalty if convicted. All seven were indigent, with no possible means to pay lawyers.

The families of the defendants contacted Berkeley attorney Fay Stender, well known for her work in prison reform. Stender arranged with San Francisco attorney Patrick Hallinan to take the case. For a while, Hallinan represented all seven defendants.

According to the report filed by Special Agent Norman Gard of CII, the charges against the seven were based on statements by the following inmate witnesses: Anthony Bianco, William

Brizendine, Rodney Catsiff, Arnold Chase, Francis J. Indino, Herman E. Johnson, Don Lamontagne, and Warren Miner.

Who were these witnesses? How did they come forward? Curly-haired, flamboyant Patrick Hallinan gave his explanation at the opening of the trial. He described how the prison authorities had first investigated the Mexican Americans but had not been able to make a good case. Then, he said:

Now, amongst hungry starving men, they dangle a piece of chocolate cake and they get results. They appeal to two kinds of men and these are what the witnesses are, ladies and gentlemen, who will testify on this stand. The first group of people they appeal to are the Nazis, white racists in the penitentiary who call themselves Nazis, who tattoo themselves with thunderbolts and swastikas and who feel that any chance to get a nigger is a strike for the cause . . . and they say, let's lay it on the black man. . . .

The other kind of witness is the ordinary home-grown style of opportunist which the prison is full of, who will take advantage of the opportunity to get himself special privileges and to get himself rewards or to get himself a parole. And those witnesses, ladies and gentlemen, as we develop their testimony, will almost invariably, almost to the man, bloom in this manner, that on their first interview and first occasion they are talked to, they know very, very little and they have very little to add to the prosecution's case. And then as they are segregated and isolated and put amongst themselves where they can talk between themselves, and as they are interviewed time and again and time and again and time and again by a particular few correctional officers who, I will say right now, we will say coached these witnesses, their testimony blossoms and blooms into the case which will finally be brought into this courtroom.

By the end of the trial, Hallinan's opening charge that the witnesses were coerced would return to haunt the prosecution and provide a stunning climax to the trial.

One of the witnesses, Rodney Catsiff, described in a letter how he happened to become involved.

I was associating with a known homosexual *black* inmate, and when the officer was killed the staff called me in and advised me they are ready to send me to San Quentin as an undesirable inmate. Lt. William Merkle, Captain Clifford Rodgers, Assistant Attorney General Norman Gard and Mr. Barnes, Chief Deputy, Monterey County, were at the institution. Lt. Merkle said, I can save you if you'll go into the Adjustment Center and be placed between the suspects as a "plant." I reluctantly agreed, as San Quentin was not very good.

James Wagner, one of the accused seven, reported that Catsiff had been placed in the hole with him and constantly said that he was going to set Wagner up for the murder of the officer.

Catsiff was promised "a nice place with no other inmates," and "Lt. Merkle told me we'd be released after trial." However, once Catsiff had given a deposition against the defendants, the tone changed. While being transferred from one prison to another, Catsiff reported, "Captain Rodgers from Soledad said, 'Don't you forget we got your depositions and really don't need you. Don't ever cross me—you'll regret it.' Then the Captain told us, 'If you escape, I'll hunt you down and I'll find you.'"

Catsiff, who had a reputation among prisoners as a snitch and a homosexual prostitute, marked himself as a witness for the prosecution and had to be kept in protective custody.

Francis Indino, an inmate with whom Shull had argued on the morning of his death, described how he came to be a witness. Immediately after Shull's death, officers questioned him for seven hours, then left him in a holding cell. A lieutenant threatened to use a rubber hose on him "if the right answer wouldn't be used." The next day he went for a lie detector test. The polygraph operator, Indino reported, threatened him with his maximum term in prison. Indino then took Sodium Pentothal. In a later account of his experience he wrote that before he took it, ". . . they showed me pictures of the defendants and somehow they had worked on my mind before I went under the sedation."

The transcript of his testimony under the Sodium Pentothal, as well as the actual tape, had to be delivered to defense lawyers representing the inmates accused of murder. Comparison of tape and transcript reveal significant differences between what was said and what was transcribed; sounds of slaps and "Wake up, Indino" recur throughout the tape.

When asked if he had ever had any trouble with Shull, he answered, "No." He said that he had seen Phillips and Dunn enter the yard shack. His answers contain inconsistencies: he did and he did not see Shull's body; he saw Phillips and Dunn before, then after, he went to the canteen; he does know, he does not know, anything about the case.

After he recovered consciousness, the tape was played back to him once or twice. Like Catsiff, he was promised safe, non-punitive confinement and was threatened with violence if he double-crossed the interrogators.

Arnold Chase, a black inmate who had attended the tutoring class, told defense attorney Laurance Moran how he came to testify in the case:

They asked me, did I know what was going on. I didn't. I knew of rumors, of course. . . . Then Lt. Shumaker kicked me in the back and I just went along with what they were saying. . . . Captain Moody said if I didn't go to court to testify that they would never get me released. . . . They kept telling me to say Jesse Phillips was there. He wasn't at the class. If I was to tell it like it is they might harm me. They kept threatening me. . . . They had some pictures and they laid this on the table and said, "Wasn't this the one there" and Shumaker said, "The man showed you," and I said, "Man, I don't know." Shumaker hit me on the head with his keys and told me to pick someone and I closed my eyes and picked one.

Chase said that he had been offered \$1,000 and immediate parole to testify. They told him that whatever he said would be held confidential and that no moves would be made that might jeopardize him.

In that conversation, Chase seemed uncertain about the name of the man he was supposed to be incriminating, James Wagner, nicknamed Punchy. Chase said that a man in the tutoring class had said that an officer "had to go," and that the man was: "It's, uh, what is it, I forgot who, uh, Pooky. His nickname is Pooky."

Q: Pook?
Chase: Yeah, they call him Pooky.

A little later, Chase called him "Poochy." Still later, he said, "Hey, that name ain't Pooch, it's Punchy." But further on he referred to Poochy. "Punchy," corrected an interrogator. "Punchy," repeated Chase.

When asked if he knew Roosevelt Williams, another of the seven, Chase replied, "The short, dark-complexioned brother?"

Q: He, he's pretty tall—I think he's a weight lifter. Big guy, big guy, they call him Rosie.
Chase: I could picture a brother. . . . He comes to the meetings all the time. . . . He's big, you know.

Throughout, Chase appears to try to follow the leads held out to him by the questioners, to give the right answers.

Chase told an investigator for the defense attorneys that he expected an early parole in exchange for his testimony; that the usual period of time served for his crime is two and a half to three years, but he expected to be out soon, having served only one. A notice was placed in Chase's file that he ". . . voluntarily and with knowledge of the great peril to his physical well-being and for his life, has given various statements and submitted to numerous examinations resulting in his becoming a prosecution witness." Before long, Arnold Chase was out on parole.

The other prosecution witnesses, whose names had spread throughout the prison system, required special care and treatment. They could not be allowed into the general population of any institution, for fear that an inmate would kill them. Yet the

witnesses complained and grew restive if they were kept in lockup all day.

In October, presumably for safekeeping, the group was transferred to Palm Hall, the maximum-security section of the California Institution for Men at Chino. The prisoner porter responsible for cleaning up the area near them observed the special treatment they received.

No one was allowed on the tier but me to sweep. They got supplies, they were afraid of poison. . . . They were given \$80 apiece to testify, and all they had to do was ask for anything from the canteen and they would get it. Witnesses were given decks of cards and special chess sets—I passed them out. . . . They got special contact visits, while other people had to visit through a telephone.

The porter reported that Warren Miner, one of the group, said that the statements he had made to the prosecution were false, that all he knew is what Captain Rodgers at Soledad had told him, that Rodgers had promised an early parole date, \$500, easy time, and unlimited canteen supplies. According to the porter, some of the witnesses were anxious and wanted to change their testimony, but they were afraid to, and Captain Moody, an officer known for his cruelty at Soledad, came to check on them every week.

Among the many Chino inmates who confirmed the free canteen and special privileges given the group was Robert Morris, who overheard a sergeant asking Miner if the free canteen had made him happy. Another inmate wrote his lawyer in fury: "This is self evident, that those guys are willing to send [the seven] to the gas chamber just to obtain their release and not because they know anything."

Witnesses received less desirable treatment than they had been led to expect, however. Warren Miner had a friend in another section of Chino with whom he kept in contact. In one of his "kites" (illegal messages) he wrote: "I am kind of scared

to write anything that might be intercepted but you cats got a right to know. It's bad bad. They are so much in a panic that they can't show no heart. . . ." He reported that prison staff handcuffed him with his hands behind his back, then pulled up on the cuffs until his arms could go no farther, asked him questions, and pulled up still more. "I ain't never felt so much pain as that." In his correspondence, Miner went to some lengths to try to convince his friend that he was a good guy, that he was not really on the side of the prosecution.

Miner described his keepers with feeling: "They're worse than the syndicate. I mean it; they're cold blooded animals [*sic*]. I fear them more than getting stuck. . . . They hint around they could go to your family and make you look like some rat, some punk in the joint, if they wish."

Terrified of the prison staff, knowing their lives were in danger from inmates, the witnesses stewed and fretted. In November they were moved from the strict confinement of Palm Hall to the more comfortable California Men's Colony West at San Luis Obispo. A curious series of flip-flops took place there.

A renowned "jailhouse lawyer," a prisoner named Richard Lewis, wrote a Berkeley lawyer that he had important information on the case. When the lawyer visited CMC West, he was met by Associate Superintendent Russell, who, in a highly unusual procedure, served him with a judge's order forbidding publicity about the case. Lewis told the lawyer that Russell had tried to forbid him to come out for the visit and had threatened that he would be in violation of a court order, in a "precarious" position.

The reason for Russell's anxiety was shortly made plain. Lewis told the lawyer that three of the prosecution witnesses, Indino, Catsiff, and Brizendine, had come to him requesting protection and help. They had dictated and signed a deposition saying that they had been coerced into testifying and, in fact, knew nothing about Shull's death. The deposition, dated November 12, said:

The methods employed to compel us to give false testimony were injections of various drugs, psychological stress and strain induced through the employment of deprivations and long hours of constant, cruel interrogation whereby we were advised that if we did not do as we were instructed and sign statements dictated to us, we would be housed in the regular cell blocks and that the California Department of Corrections officers would then promulgate to the other inmates that we were informers, which would surely result in our demise. . . . Our lives are in constant danger; the Department of Corrections will not afford us protection. It is therefore imperative that we either secure Federal protection or escape. This is a true statement given of our own free will.

Correspondence between staff members at CMC West shows that Catsiff had requested immediate FBI protection on November 10, two days earlier. When that did not arrive, he turned to Lewis. When an FBI agent visited him November 13, however, Catsiff told him about the deposition he had given to Lewis and again requested protection. Appealing to the agent for help, Catsiff said he had been threatened into making that deposition. Catsiff was rushing from one side to the other, terrified for his life.

James Willis, a prisoner at CMC West, was one of several who said that the three prosecution witnesses had voluntarily given Lewis the statement, but had become wildly frightened of Corrections personnel after they had done so. After prison authorities found out about the deposition, said Willis, they threatened the witnesses and forbade them to communicate further with Lewis. The witnesses were pressed back into line; Captain Moody of Soledad continued to check on them periodically.

Indino described the most notable of these visits. "It was Christmas. When he came in, Captain Moody was under the weather. He came in and gave us our Christmas pack-cakes, stuff that was contraband, figs and stuff—mmm that was good stuff."

Some of the witnesses complained to Moody about having to get up early in the morning and about having insufficient food. Pulling out a gun, the drunken Moody became enraged and moved next to Bill Brizendine.

"You will [testify] or else, Brizendine," threatened Moody, holding the gun to the witness' chin.

"I will, I will," said Brizendine. Moody then glowered at the group.

"If any of you men try to cross me I will lock you up in Central Soledad and bury you."

Bringing firearms into certain parts of a prison is a felony. Moody, who had violated that law, was never prosecuted and continued his employment with the Department of Corrections, later riding herd on witnesses in the Soledad Brothers case.

Brizendine, in an interview with a lawyer defending one of the seven accused, reflects something of his state of mind: "Anything said here will not be given to the District Attorney, will it? I could tell some things, but I would be dead in the morning. . . . If I tell, I would catch the wrong bus going to the wrong institution and be killed. Moody pulled a gun and threatened to kill me. . . . I am trying to get someone to help me so that I can tell my story, otherwise I am dead."

The lawyer asked, "Who is threatening you?"

"The Department of Corrections."

"How are they doing this?"

"Threats. . . . I cannot say more until I get some help. If I say more I am dead."

In January, 1971, a final witness came forward for the prosecution. When first interviewed, he had said he was in school when Shull was murdered; later, he said he had gone to class, but had left shortly after it began. In January, he said he had stayed in his cell all morning after bribing a clerk to mark him present. From his room, he had an excellent view of the yard

shack. This witness, Thomas Brenson, was interviewed by prison staff and representatives of the prosecution on January 26.

After congratulating him for having the courage to admit that he initially lied, the questioners proceeded:

Q: Let me assure you of one thing, if there's anything that you have to contribute in this affair, you'll be properly looked after, as have other people, you know.

Q: We can split you out of here right now, it's up to you. . . .

Q: Do you remember the nationality of the people coming out of the yard shack?

Brenson: Right, they were black. See I'm white and . . .

Q: We realize.

Brenson: Yes, he was one of them. I don't know his name.

Q: Maybe it's better that you don't for right now. Hey, rest easy man, it'll be taken care of.

The questioners then showed Brenson photographs of the accused.

Q: We're going to ask you, Tom, we're going to put those pictures back in there, there's a couple of guys that look very similar in there; I don't know that you looked through all of them or not, we'll keep this one of Wagner out and look through that group again. . . .

Brenson, not surprisingly, identified as James Wagner one of the two men he said he had seen emerging from the yard shack. The other he named as *Theodore Williams*, a black inmate not related to Roosevelt Williams.

Q: . . . if you were to go back out, do you think there would be any heat on you?

B: I'd feel unsafe, let's put it that way.

The interview ended with assurances to Brenson that he would be protected.

THE DEFENDANTS

All fifteen suspects in Shull's murder were sent directly to O Wing, the maximum-security section of Soledad. The first to go was Roosevelt Williams, whom I interviewed later at Folsom prison. Tall, handsome, and athletic, Williams had been a model prisoner in minimum security when Shull was killed. He kept smiling as he described his experiences, moving his head from side to side ruefully as he described horror after horror. He spoke as though he could not believe these things had happened.

He was sent from his cell to the hole without being told why. A lieutenant merely told him: "You're going to the gas chamber." In O Wing, said Williams, "I just lay there. I thought, they're going to kill me. The first days officers kept coming by and looking; we were just like art exhibits. I was thinking what to do—I can't protect myself, they're going to win." He told how white racist inmates took torn strips of sheets, rolled them into knots, set them afire and threw them to burn in front of his cell and the cells of the other blacks who had also been sent to the hole. Mail was not delivered.

Williams described what O Wing was like for him:

When first placed in the hole, I was stripped down and remained without clothing for two to three weeks. I had no shoes. I was given none of my personal property for over a month. Eating and sleeping were extremely difficult and much of the time completely impossible. With no clothing and skimpy blankets, the nights in the cell were too cold for decent sleep. Tear gas is used frequently in O Wing, and when used in any cell on either of the two connected tiers, all of the cells receive gas. Food served me by white inmates often had urine and excrement in it. Racial taunts and names were yelled to me day and night.

The other suspects in the hole suffered similarly. They were not told why they were being held; they were isolated in their cells twenty-four hours a day except for a shower once or twice a week. Guards stood by and silently stared at them, and the racial harassment continued constantly.

In February, 1971, a new district attorney took office in Monterey County. Without any explanation, he dropped the charges against four of the seven, leaving Roosevelt Williams, James Wagner, and Jesse Phillips to go to trial. After complicated maneuvering, the court appointed lawyers. Richard Hodge of San Francisco represented Williams; Laurance Moran of Monterey, a former OEO official, represented Phillips; and Patrick Hallinan of San Francisco, in the case from the start, represented Wagner.

During the months before trial, the lawyers and a team of investigators interviewed inmates and collected evidence of the bribery and coercion of witnesses. The lawyers were not afraid to challenge the Department of Corrections, to accuse them of railroading innocent men to the gas chamber, or to condemn the dreadful prison conditions in which their clients were held. The lawyers and their investigators interviewed each witness several times, driving many miles to remote prisons throughout California, and thus were able to detect and document the bribery and coercion attempts by Corrections personnel.

Hodge, the tall, blond lawyer for Williams, prepared a motion to suppress all statements made by defendants and all statements made by witnesses and to dismiss the case on the ground that since all witnesses had been bribed or coerced, there could be no truthful testimony and no fair trial. "This case represents the most outrageous denial of due process any court has seen in the history of jurisprudence," he claimed. "No witness who takes the stand can be deemed to be reliable or trustworthy." Judge J. Francis Good denied Hodge's motion, and the case went to trial.

It lasted nine days. After several days of testimony from investigating officials and custodial personnel, the key inmate witnesses for the prosecution were called to the stand. The first of these was Francis Indino, who had given testimony incriminating Jesse Phillips while under the influence of Sodium Pentothal. Under questioning by Assistant District Attorney Barnes, Indino reported seeing Phillips and Dunn at the picnic tables and overhearing a remark about offing a pig or bull; he described his activities during that morning.

On cross-examination, Hallinan asked Indino about the testimony he had given while drugged. "Was there anything in the tape that you did not personally remember before you went under the drug?"

"Yes, sir," replied Indino. "Mostly all of it."

Hodge inquired about Correctional personnel's threats to use the rubber hose.

Hodge: I take it at that time, after you had been threatened, you were a little bit worried about your own welfare, were you not?

Indino: Yes, sir.

Hodge: As a matter of fact, at that time you thought it would be important for you, as a witness, to come up with something that would point the finger of suspicion away from yourself to someone else, did you not?

Indino: Yes, sir, I would have to say that.

Hodge: Isn't that the reason, Mr. Indino, that you mentioned to Mr. Barnes that you saw another person by the name of Jesse Phillips at the picnic table?

Indino: Yes, sir.

Indino told of other threats and of his fear of doing the maximum amount of his sentence. He said that Barnes had been trying to get him to lie on the stand. One attempt by Barnes to discredit Indino was ludicrous. Hodge was asking about Captain Moody.

Hodge: You actually observed Captain Moody take a gun and put it to Mr. Brizendine's head?

Indino: No, chin.

Barnes: Objection, Your Honor. I ask that the defendant's answer be stricken because there is no showing of any threats made to this witness. . . . He said the gun was pointed at another witness' head.

Hodge: In his presence, I might add.

The Court: In his presence.

Barnes: There is no showing as to whether this witness was intimidated by that or not.
(Laughter)

The Court: Objection overruled.

Indino's performance on the stand shook the prosecution. Most of the spectators at the trial were members of local law enforcement agencies. Silences of despair and dismay filled the courtroom as Indino came apart under cross-examination.

More shocks for the prosecution were forthcoming. The next day Arnold Chase, the black on parole in Los Angeles, took the stand. Under questioning by Barnes, he testified about events which had taken place prior to Shull's death, the only significant allegation being that he had heard Punchy Wagner say in the tutoring class that "a pig had to go." He answered Barnes's questions, seemingly without difficulty.

He changed when under cross-examination. Mumbling and nervous, he refused to remove his dark glasses when Laurance Moran requested him to. He said he was utterly unable to recall a long interview he had had with Moran in Los Angeles the month before; in this interview he had told Moran about the coercion to which he had been subjected. He gave contradictory answers, refused to recognize as his own words the transcriptions from the interview which Moran read into the court record, and said at one point, "I don't want to remember anything I said to you." Barnes even asked him during redirect

examination, "Are you telling the truth now or when you talked to Mr. Moran?"

Chase's two-and-one-half-hour series of evasive responses further damaged the prosecution's case. Later that same day, the whole house of cards fell in, like a scene from Perry Mason.

Thomas Brenson was called by Richard Hodge. He testified that he had seen Punchy Wagner leaving the yard shack, presumably after the death of Shull. Brenson was asked to identify Wagner, sitting at the defense table before him. After much hesitation, in the hushed courtroom, he picked out Jesse Phillips.

Brenson went on to testify that he had identified a second person leaving the yard shack, then added lightly that he had lied about it. He explained that he held a grudge against Theodore Williams, a black inmate whom he had identified as leaving the yard shack with Wagner. Brenson admitted, as Wagner stood for all to see, that he was not the man who had left the yard shack.

Hodge inquired why Brenson had waited a full six months before coming forward with his testimony. "There is just something on my conscience," he responded.

"And what part of your conscience," continued Hodge, "caused you to name Theo Williams and place him in a position where he would be executed if he were convicted?"

Silence from Brenson.

Hallinan began to pound questions at the witness, who was by this time flustered and shaken.

Hallinan: You told [the officers interviewing you] that you are known as a staff snitch and will tell anything you know, correct?

Brenson: Yes, sir.

Hallinan established that Brenson had been confined in a special lockup cell in North Facility at the time the crime occurred.

- Hallinan: Tell me, Mr. Brenson, was not the reason you were down there because you were heavily in debt?
- Brenson: Yes.
- Hallinan: Now, what I would like you to do, Mr. Brenson, is tell the jury what it means to incur heavy debts in prison. . . .
- Brenson: It is, let's see, I would be turned out as the phrase is used, or stabbed.
- Hallinan: Doesn't turned out, Mr. Brenson, mean that whoever you are obligated to or indebted to, uses you as a male punk or homosexual to have relations with other inmates?
- Brenson: To a certain degree, it depends on the other individual, sir.
- Hallinan: Brenson was so heavily in debt that he relied upon the protection of the institution and as payment for that continued protection, became a witness in this case.

Moran followed Hallinan on the cross-examination. Gentle and compassionate where Hallinan had been severe, he asked Brenson again about his identification of the man he had seen leaving the yard shack. He showed him a photo of Jesse Phillips.

"Is this not the man you saw coming out of the yard shack, Mr. Brenson?"

"No, it isn't," he finally answered.

Moran, gently, "Mr. Brenson, do you have any idea what the effect of your testimony in this case can be?"

Brenson then went on to explain that he wished to be transferred out of Soledad, that his own information was inadequate to achieve a transfer, so he invented names in order to make the information more valuable.

- Hallinan: And that was so you would get paroled, wasn't it?
- Brenson: No, sir.
- Hallinan: It was so you would get out of the institution, wasn't it?

Brenson: Correct.

Hallinan: I—I really have no further questions.

The court case was finished, after only the tip of the iceberg had surfaced. The next day, the district attorney himself asked that the charges be dismissed. The judge complied, with a short homily to the defendants to the effect that although they were innocent of the charges lodged against them, they should note that justice had been done.

The defense attorneys, by now wise in the ways of prison personnel, asked the judge to write a letter to be placed in the records of the three defendants stating that they had not been found guilty and ought not to be discriminated against in prison on account of the charges lodged against them. The judge agreed, yet when I first interviewed Roosevelt Williams and Punchy Wagner at Folsom after the trial, I found that the effect of that letter had been virtually nil. Guards made remarks to them such as, "You got lucky once, but I'm watching you," and often fixed them with hard, hostile stares. Wagner and Williams had been sent to Folsom and Phillips to San Quentin, directly from the Monterey County courtroom. All three, who had been in minimum security before this case, were sent to the hole at their new prisons and spent many, many weeks there before being released to the general population after much pressure from lawyers and further inquiries from Judge Good.

I asked Punchy Wagner what the effect of the case had been on him. He could barely answer. "I was bewildered," he said. "Hallinan would bring me transcripts and I would get confused. I'm still confused as to what happened, the change was so sudden. I was a model convict." With his young, bland face, he looked about twenty, glasses askew on his broad nose. "The police [convict word for guards] have not forgot what happened in Soledad. I think there is going to be a setup; no telling what these people are capable of doing. I feel paranoid, all these police officers knowing who Wagner is and what he was charged

with and letting their personal feelings interfere with their jobs.”

Wagner added, slowly, “This case caused me to lose my family. My wife stopped corresponding and would not bring our two sons to visit me. She just thought me capable of doing that. I was trying to fight for my life at the same time I was trying to fight for my family, my wife and my children.” Wagner’s face clouded with pain. “I tried to convince my first lawyer, the public defender, that the evidence was being trumped up. But he would not believe me; he was a friend of Barnes.”

I asked Patrick Hallinan whether he thought the conduct of prison officials in this case was an aberration or whether it was representative. “The testimony, the manner in which it was collected, put together, and prosecuted is on a par with almost every prison case I have seen,” he replied. “Most of the cons who were prosecution witnesses have in their files evaluations from prison psychiatrists as pathological liars. The Corrections people were relying on the testimony of pathological liars to send seven innocent men to the gas chamber!”

The behavior of prison staff—selecting defendants, coercing witnesses, eliciting testimony with bribes, threats, and coaching, harassing the men found innocent—illustrates the absolute power these men exercise over the lives of prisoners.

Constitutional rights and due process under the law were annihilated by officials desperate to obtain conviction. Representatives of the California Department of Corrections and the district attorney preyed on the opportunism and racism of prisoners willing to see others executed so that they might go free or get transferred to a safer prison. Inmates who could not be enticed by rewards were threatened with physical harm and parole denial.

For all that was done to coerce, bribe, and threaten the inmate witnesses, no Correctional officer will be tried for assault, no prosecutor will be tried for tampering with evidence, no

warden will be fired. Indeed, the warden was promoted and Captain Moody went on to further custodial care of the alleged prosecution witnesses in the Soledad Brothers case. The Department of Corrections fully lived up to the name inmates have bestowed upon it—the Department of Corruptions.

Every inmate of the California Prison System who knows about the Soledad Seven case has one more coal to add to the fires of his rage, one more flagrant example of the law’s hypocrisy, one more reason to act with violence, because he knows how high are the odds against him. And for all that the defendants were acquitted and the prison authorities discredited, the shame of the moment will pass; the reporters and the lawyers will return to their offices; prisoners will remain powerless in their cages; those who stood against the power of Corrections will pay, in paroles denied and endless small harassments, until prison authorities are stripped of the absolute power they now possess.